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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,989	07/11/2003	Kazuto Hirokawa	2003-0954A	2781

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EXAMINER

SHAKERI, HADI

ART UNIT PAPER NUMBER

3723

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

CS

Office Action Summary	Application No. 10/616,989	Applicant(s) HIROKAWA, KAZUTO	
	Examiner Hadi Shakeri	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
 4a) Of the above claim(s) 22-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>082203</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 10 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 10 recites the limitation "said dresser" in line 2. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 20 recites the limitation "said dresser" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

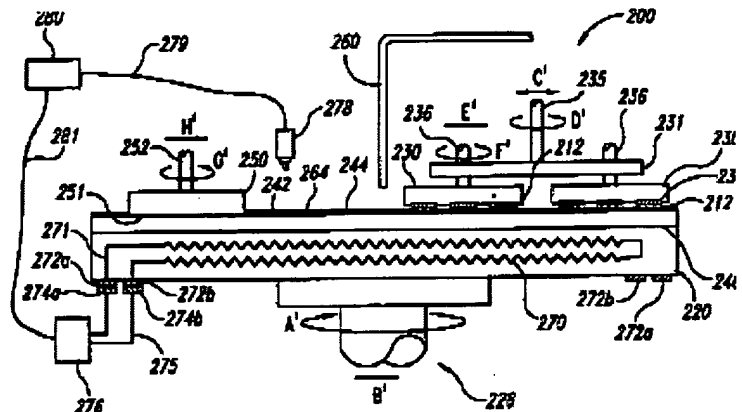
6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-10 and 12-20 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Brunelli (5,957,750).

Brunelli discloses all of the limitations of claims 1 and 12, i.e., a polishing method for polishing a workpiece, comprising pressing a workpiece against a polishing surface of a polishing tool (12) containing a resin (01:43), to bring the workpiece into sliding contact with said polishing tool, thereby polishing the workpiece with abrasive particles; wherein at least a part of said polishing tool is kept at a temperature equal to or lower than a glass transition temperature of said polishing tool. (Abstract)



Regarding claims 2-10, 12 and 14-20, Brunelli meets the limitations, i.e., heating the surface by heating the table, polishing liquid or a dresser liquid (244), the workpiece (Fig. 3), processing assistance (250) which is operated independent of the workpiece holder.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

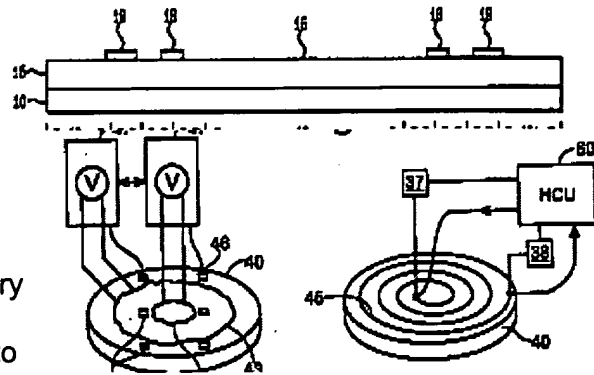
9. Claims 11 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunelli in view of Yang et al. (6,749,484), Monore (6,227,939) or Wise et al. (6,020,262).

Brunelli meets all of the limitations of the above claims, except for disclosing controlling the temperature through a member attached to the polishing head carrying the workpiece.

Art Unit: 3723

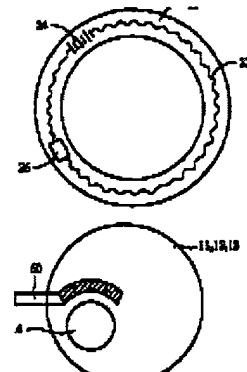
Controlling temperature through the top ring is known as evident by Yang et al., Monore or Wise et al.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Brunelli with temperature control means as taught by Yang et al., Monore or Wise et al. as another economical means of controlling parameters in CMP operations.



10. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunelli in view of Yang et al.

Brunelli meets all of the limitations of the above claims, except for disclosing controlling the temperature through a member operable independent of the dresser and a polishing head carrying the workpiece. Yang et al. teaches CMP apparatus with temperature control utilizing a member (60) operable independent of the top ring holding the wafer.



It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the invention of Brunelli with temperature control means as taught by Yang et al. as another economical means of controlling parameters in CMP operations.

Double Patenting

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In*

Art Unit: 3723

re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

12. Claims 1-12 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 28-31 of copending Application No. 10/352,852. Although the conflicting claims are not identical, they are not patentably distinct from each other because the method as claimed in the above application anticipates claims 1-12 or renders these claims obvious in view of one of ordinary skill in the art.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

13. Prior art made of record and not relied upon are considered pertinent to applicant's disclosure. Kimura et al. and Ohashi et al. are cited to show related inventions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is (571) 272-4495. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3723

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Hadi Shakeri', with a stylized, flowing script.

Hadi Shakeri
Primary Examiner
Art Unit 3723
November 27, 2004